

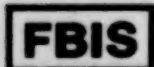
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Vietnam Report

No. 2173

SRV Draft Constitution Contents, Terminology Explained



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SRV DRAFT CONSTITUTION CONTENTS, TERMINOLOGY EXPLAINED

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STATE COUNCIL PROVIDED FOR IN SRV DRAFT CONSTITUTION

Hanoi LUAT HOC [JURISPRUDENCE] in Vietnamese No 3, Jul-Sep 79 pp 9-11

[Article by Ngo Huong Dam: "Some Views on the State Council as Defined in the New Draft Constitution"]

[Text] The draft constitution which has been promulgated for the entire people to debate and express their views contains a new topic relating to the organization of the state apparatus: it is the creation of a State Council [HOOIJ DOONGF NHAU NUWOWCS]. Formerly, according to the 1954 Constitution, our state organization included the National Assembly Standing Committee and the president of the country. Today, according to the new draft constitution, the president of the country and the National Assembly Standing Committee will be replaced by a single organization--the State Council.

In the capitalist regime, the head of state is an individual--a president or chairman of the country. Our regime applies the system of collective head of state [nguyeen thur taapj theer]--that is, the head of state is not an individual but a collective. In pursuance of this principle of collective head of state, formerly our country had a president but it was up to the National Assembly Standing Committee to decide on major affairs of the state such as promulgating regulations, ratifying or abrogating agreements signed with foreign countries, declaring a state of war whenever our country was victim of aggression and so forth; the president would then order the publication and execution of these decisions of the National Assembly Standing Committee. In view of the present new circumstances in our country, the draft constitution illustrates the principle of collective head of state under a new form--the merger of the president of the nation and the National Assembly Standing Committee into a State Council. This new organization is consistent with the need to increase the efficiency of our state apparatus in the new situation to enable it to operate vigorously, rapidly, neatly and in a more centralized manner. It will have the effect of simplifying and perfecting the work organization and method, thus enabling the decisions of the state to influence all social activities more strongly. For example, whenever the State Council passes a regulation or decides on some matter, such regulation

or decision will become effective and be carried out only after it has been signed and promulgated by the chairman of the State Council without any other formality. However, we must not simply believe that this is merely a merger of two organs--the presidency of the nation and the National Assembly Standing Committee--but must clearly understand the meaning of this merger which is aimed at heightening the position and strengthening the mission and function of a state organization belonging to the highest organ of state authority and at ensuring that this organization vigorously manifests the people's right to collective ownership in the new revolutionary stage.

According to the new draft constitution, the State Council is the standing organ of the National Assembly and simultaneously the Presidium of [CHUR TICHJ TAAPJ THEER] of the Socialist Republic of Vietnam. In its capacity as a standing organ of the National Assembly, the State Council belongs to the system of state power organs. Though elected as the highest organ of state authority by the people who are the collective owner of the country, the National Assembly works according to the parliamentary system and decides on important affairs of the country only in its regular or extraordinary sessions. Therefore, during the intervals between the National Assembly sessions, there must be an organization elected by the National Assembly to settle the necessary affairs within the scope of action and power vested by the constitution and the National Assembly. Such an organization is the State Council. In other words, due to task requirements, the National Assembly entrusts part of its power to the State Council which is consequently responsible to the National Assembly, must submit reports to it and may be dissolved by it. This is an illustration of the principle of democratic centralism in the activities of the highest organ and apparatus of state authority. Simultaneously with its position and function as Presidium of the state, the State Council--through its own chairman--represents our country in domestic and foreign affairs. Nevertheless, it must be noted that the State Council is only allowed to implement the tasks and use the powers entrusted by the constitution, laws and National Assembly resolutions. The State Council cannot replace the National Assembly to decide on problems relating to the latter's mission and competence as mentioned in the constitution such as drawing up and amending the constitution and laws, deciding on the state plan and the draft state budget, ratifying the state budget settlement and so forth. To promptly meet requirements of necessary tasks under certain circumstances, the draft constitution entrusts the State Council with carrying out the following tasks in the intervals between the National Assembly sessions: deciding on the creation or abolition of ministries and organs of ministerial level; appointing and dismissing deputy chairmen of the Council of Ministers [HOOIJ DOONGF BOOJ TRUWOWNGR], ministers and heads of organs of ministerial level; and declaring a state of war should the country be invaded. Since these three matters fall under the competence of the National Assembly, any decisions made by the State Council regarding these matters must be submitted to the next session of the National Assembly for ratification.

Another noteworthy point is the difference between the chairman of the State Council and the chairman of the National Assembly. The State Council is the standing organ of the National Assembly and also the Presidium of our state. For this reason, the position of the chairman of the State Council differs from that of the chairman of the National Assembly, who is elected by the National Assembly to direct those affairs of the National Assembly which have the character of internal activity such as presiding over meetings of the National Assembly, ensuring implementation of the National Assembly bylaws, maintaining relations with the National Assembly deputies, regulating and coordinating the activities of various committees of the National Assembly, carrying out foreign relations as prescribed by the National Assembly and so forth. According to the 1959 Constitution, there was a chairman of the National Assembly Standing Committee but not a chairman of the National Assembly. Formerly, because of the absence of a National Assembly chairman, the direction of the National Assembly internal activities was frequently fraught with difficulties. It will be irrational for the chairman of the State Council to assume the abovementioned tasks because they fall under the scope of different functions. If the affairs relating to the internal activities of the National Assembly are accumulated in the chairman of the State Council, this method will not only prove incompatible with his position but also make him so busy with these affairs that he cannot properly guide the execution of the missions and tasks entrusted to the State Council by the constitution and the National Assembly.

On the basis of the position and function of the State Council as indicated in Article 97, the draft constitution has determined the Council's duties and powers rather rationally. However, after carefully examining these duties and powers, we would like to express the following views:

1. Concerning the supervision of the observance of the constitution, this task was formerly entrusted by the 1959 Constitution to the National Assembly but not to its Standing Committee. Now the new draft constitution again entrusts this task to the National Assembly but not to the State Council. Article 79 of the draft constitution says the National Assembly "exercises the right of supreme control over the enforcement of the constitution and laws." But this point is not clear enough: What is "supreme control?" If the National Assembly exercises "supreme control" over the enforcement of the constitution, what organ under the National Assembly will exercise "specific control?" This question has not yet been dealt with in the draft constitution.

Past experiences have demonstrated that since it works according to the parliamentary system and meets [only] twice a year, the National Assembly has found it hard to detect and promptly rectify and eliminate violations of the constitution and hence to satisfactorily carry out control over the enforcement of the constitution. Therefore, we suggest that this task be entrusted to the State Council. In its capacity as the standing organ of

the National Assembly, the State Council is qualified to perform this task satisfactorily. If in drafting the constitution we want to maintain supreme control over the enforcement of the constitution, we must have some agency to help us concretely supervise this enforcement. Such an agency should be the State Council and the draft constitution should clearly prescribe this task to the State Council. If we consult the constitutions of the socialist countries, we will see that the constitutions of the Soviet Union, Hungary and others entrust this task to the Presidium of the Supreme Soviet or the Councils of State.

2. The appointment, dismissal and recall of our diplomatic representatives to foreign countries and international organizations are entrusted to the State Council by the draft constitution. In our opinion, entrusting the State Council with the appointment and dismissal of diplomatic representatives is a completely correct action which illustrates the people's right to collective ownership in this matter. Diplomatic representatives are to be appointed and dismissed by the standing organ of the National Assembly--the highest representative organ of the people. As for the recall, we think it should be decided by the Council of Ministers. The recall of diplomatic representatives reflects our diplomatic struggle against some foreign country. To promptly cope with complex developments in this struggle, the best way is to empower the Council of Ministers to recall diplomatic representatives when necessary.

3. Following modifications and additions based on the views expressed by middle- and high-ranking cadres, the draft constitution inscribes the subject of citizenship [quooos tichj] in Chapter V, Article 52 but does not specify what organ has the competence to decide on problems relating to citizenship such as naturalization, renunciation of nationality, denaturalization, restoration of nationality and so forth. Perhaps the draft constitution intends to let these questions be specifically defined later on by a law on nationality. However, our opinion is that resolving problems concerning nationality is an important matter especially in view of the present situation when the Beijing expansionists are taking advantage of the problem of Vietnamese of Chinese descent to sabotage the revolutionary undertaking of our people. Clarification of the abovementioned questions by the constitution will not only have a political significance in the present situation but also lay a legal basis for satisfactorily solving cases occurring in this domain and formulating a sound law on nationality in the future. Our opinion is that the State Council is the most appropriate organ to assume the abovementioned power.

4. Another question is to decide on a legislative program and plan for our state. Generally speaking, jurists are now almost unanimous that to step up legislation to provide within a fixed time limit our country with a relatively perfect legal system, there must be a long-term and yearly legislative program and plan to be drawn up by the Council of Ministers and submitted to the State Council for ratification and implementation control. In our opinion, this important problem must be mentioned in the constitution and considered to be a task of the State Council--that of "deciding on a state legislative program and supervising its implementation."

REASONS FOR STATE COUNCIL, COUNCIL OF MINISTERS EXPLAINED

Hanoi HANOI MOI in Vietnamese 4 Sep 79 p 2

[Article by Vu Phung: "State Council and Council of Ministers"]

[Text] Why is the Council of Ministers created?

Since the founding of the Democratic Republic of Vietnam, our country has had a National Assembly, a National Assembly Standing Committee and a president of the nation.

The new draft constitution prescribes an organization to replace the president of the nation and the National Assembly Standing Committee: It is the State Council which functions as a standing organ of the National Assembly and simultaneously as the Presidium of the Socialist Republic of Vietnam.

This change is necessary and consistent with the present actual situation. In the socialist regime, the head of state is a collective. As soon as our nation was founded, it had a president of the country; and this noble function was assumed by president Ho Chi Minh, who was the founder and trainer of our party and the creator of the DRV. Since 1959 to date, in pursuance of the principle of collective head of state [nguyeen thur taapj theer] and applying it to the circumstances in our country, the 1959 Constitution has determined that, although there is a state president, the National Assembly Standing Committee decides on important affairs of state--such as promulgating regulations, declaring a state of war and so forth--and that the president of the nation will subsequently promulgate such decisions and order their implementation. This organizational and working method is irrational. To make it possible to direct state affairs more rapidly and neatly and to simplify and improve the organizational and working method, the new draft constitution prescribes the merger of the president of the nation and the National Assembly Standing Committee into a single organ. With the presence of this new organization--the State Council--whenever a decision is to be made on important matters, it will immediately come into effect without involving any other procedure after the State Council has expressed approval

by a vote and after the chairman of the State Council has signed on it and ordered its promulgation.

Why is the "government" called the "Council of Ministers"?

The executive organ of the highest organ of state authority--that is, the highest organ of state administration of the SRV--has so far been called "Government [CHINH PHU];" it is now called "Council of Ministers [HOOIJ DOONGF BOOJ TRUOWNGR]" according to the new draft constitution.

This is not merely an ordinary change of name. The change of name from "Government" to "Council of Ministers" has a particular substance and meaning. In the past, a meeting of the government was called a meeting of the Government Council [hooij doongf chins phur] [Translator's note: Also commonly referred to in the past as "Council of Ministers."] When we say Government Council, this mention does not convey any clear idea about the composition of this council and the relationships between the collective responsibilities of the council and the individual ones of each council component. The name "Council of Ministers" [HOOIJ DOONGF BOOJ TRUOWNGR]--Translator's Note: the term in the new constitution literally translates to "Council of Ministers."] indicates more clearly that the council is composed of ministers and heads of organs of ministerial level and also further stresses the collective nature of the Council of Ministers as well as the responsibility of each minister for the affairs conducted by him as an individual and for the common activities of the council as a whole.

Compared with the provisions of the 1959 Constitution concerning the government, there is, generally speaking, no substantial change with regard to the duties and powers of the Council of Ministers. It must be noted that the new draft constitution says that the Council of Ministers is responsible for comprehensively managing and unifying the state tasks of building the economy, developing culture and so forth. When saying that the Council of Ministers is the highest "administrative organ" of the country, we must understand the word "administrative" more fully, unlike a number of persons who have so far interpreted "administrative" as "official documents and paperwork." Since organizing and managing the national economy and directing all aspects of social life is a very great responsibility of our state, these tasks must be assumed by the Council of Ministers.

There is a noteworthy characteristic in the working method of the Council of Ministers which is defined as follows in Article 103 of the new draft constitution: "The president of the Confederation of Trade Unions has power to attend the meetings of the Council of Ministers."

The chairman of the Vietnam Fatherland Front Central Committee and representatives of people's organizations which are members of the front may be invited to attend the Council of Ministers meetings, when necessary.

This provision is aimed at emphasizing the role of the Confederation of Trade Unions and the people's mass organizations [doanf theer nhaan daan], developing the people's right to collective ownership and creating opportunities for the people to participate in the management of state affairs. Stating that the Confederation of Trade Unions "has power to attend" and that the people's mass organizations "may be invited to attend when necessary" does not mean considering one mass organization more important than another but is just because the Confederation of Trade Unions is an organization of the working class--one which has to shoulder heavy tasks in participating in state and social management. It will be unnecessary as well as a waste of time to provide for all people's mass organizations to attend all meetings of the Council of Ministers.

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SRV ADMINISTRATIVE UNITS DEFINED, DISCUSSED

Hanoi HANOI MOI in Vietnamese 5 Sep 79 p 2

[Article by Vu Phung: "Administrative Units in Our Country"]

[Text] To make sure that our people exercise their right to collective ownership, it is necessary to satisfactorily organize the state apparatus in each locality. This is because the local administration is a unit which has daily contact with the people and organizes the implementation of all lines and policies of the party and government.

Whenever the problem of violation of the laboring people's right to collective ownership arises, it is usually due to the local cadres' failure to grasp the lines and policies of the party and government or to other causes which lead to the erroneous application of these lines and policies. The draft constitution reserves Chapter IX for the definition of items relating to the organization of the state apparatus at the local level.

The first question is how to classify administrative units in our country.

Since our country has been reunified, the classification of administrative units throughout the country must be uniformly defined in order to eliminate the fact that each locality is organized differently from others (for example, municipalities in the north are divided into wards [khu phos] and subwards [tieu khu] while those in the south are divided into precincts [and districts] [QUAANJ] and wards [phwowngf]).

According to the provisions of the new draft constitution, administrative units in our country are classified as follows:

"The country is divided into provinces, municipalities directly subordinate to the central authority, and equivalent administrative units. Provinces are divided into districts, municipalities subordinate to the provinces, and cities. Municipalities directly subordinate to the central authority are divided into precincts, districts and cities.

"Districts are divided into villages and towns. Municipalities subordinate to the provinces are divided into wards and villages."

All the abovementioned administrative units will set up people's councils and people's committees and are thus complete administrative units.

Compared with the past, there are thus some changes in the organization of the local administration: there are additional administrative units equivalent to the provincial level and municipalities directly subordinate to the central authority (there already exists the Vung Tau-Con Dao special zone); and municipalities directly subordinate to the central authority will organize two complete administrative levels--municipal and precinct with the latter maintaining direct contact with the people. So far, our capital city has set up two administrative levels--municipal and ward; there have been subward organizations which are, however, merely committees representing these subwards but do not constitute an adequate administrative level since they have only limited powers and duties. While the debate on the draft constitution is going on among middle- and high-ranking cadres, there appear to be two different opinions among the Hanoi cadres. A number of cadres suggest that our municipality set up three administrative levels--municipal, precinct (or ward) [khu phoos], and ward [phwowngf] or subward [tieeur khu] for the reason that the population of each subward is very large and equivalent to that of a village. If subwards are organized as an administrative level with its own people's council and people's committee, the administration of the people will be tighter and more convenient. Other cadres propose that there be only two administrative levels--municipal and precinct. [Their reasoning is as follows:] Unlike provinces, districts and villages which are administrative and economic units with the duty to organize and guide local economic construction--municipalities, wards and subwards do not form administrative and economic units; moreover, municipalities have the duty and ability to regulate all economic and daily life activities within the municipal scope including the supply of all essential commodities to the municipal people while wards and subwards are merely intermediary levels which redistribute these supplies to the people. From the production point of view, people in a given ward sometimes perform productive labor in enterprises or at work sites located in other wards and many of these enterprises and work sites are managed by the municipality. For these reasons, if a new administrative level is added, it will merely make the administrative apparatus more cumbersome and will further estrange the municipal and ward organs from the people. After carefully studying and pondering the views contributed by cadres, the Draft Constitution Committee has decided to bring this topic forward for the people's discussion and proposed that the internal administrative organization of municipalities directly subordinate to the central authority be composed of only two levels--municipal and precinct. It is certain that our people in the capital city will contribute realistic views about this subject-matter and make specific suggestions

with the aim of ensuring that the various administrative levels are organized in such a manner as to become more streamlined and be able to maintain closer relations with the people, to promote production and life more effectively and to further develop the laboring people's right to collective ownership.

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ROLE OF PEOPLE'S COUNCILS, COMMITTEES DESCRIBED

Hanoi HANOI MOI in Vietnamese 7 Sep 79 p 2

[Article by Vu Phung: "People's Councils and People's Committees"]

[Text] The draft constitution clearly states: "In the Socialist Republic of Vietnam, all power belongs to the people who exercise state power through the National Assembly and the people's councils at all levels, elected by the people and responsible to the people." Through people's councils at all levels, our people will thus exercise state power and develop their role as collective owners in each locality.

People's councils are local organs of state power; more specifically, they have power to decide on important local problems and to set forth measures aimed at building localities from all points of view and ensuring that the local people's life is gradually improved and the duties toward the higher levels fulfilled.

As compared with the 1959 Constitution, the duties and powers of people's councils as defined in the new draft constitution are clearer and more comprehensive and specific and include 12 tasks related to the exercise of state power in various localities in the political, economic, cultural and social fields. People's councils discuss and decide on measures designed to implement all state lines and policies; ensure observance and execution of law in localities; decide on plans, budgets, policies and measures to build the economy, to develop culture and to organize and improve the people's life; ensure the building of local people's armed forces; maintain political security and social order and safety; protect socialist property; ensure equal rights among various nationalities; ensure that citizens enjoy their rights and fulfill their obligations; elect and remove members of people's committees and members of people's courts at corresponding levels; revise or annul inappropriate decisions of people's committees at corresponding levels or people's councils at the next lower level; dissolve people's councils at the next lower level when the latter do serious harm to the people's interests; supervise the observance of law and so forth.

Since people's councils are local organs of state authority, the people's committees to be elected by people's councils are the latter's executive organs and the state's administrative organs in localities. People's committees are responsible to both the people's councils at corresponding levels and the people's committees at the next higher level and shall report on their work to both these bodies (or to the Council of Ministers if they belong to provinces and municipalities directly subordinate to the central authority). People's committees have the duty to convene conferences of people's councils at corresponding levels and to execute resolutions of people's councils [level not specified]. The term of office of a people's committee corresponds to that of the people's council.

The new draft constitution has thus clearly defined the relationships between the people's councils and their executive organs--the people's committees--and has determined the working method for people's committees and people's councils. All the provisions in Chapter IX of the new draft constitution are aimed at emphasizing the role of people's councils, further clarifying the relationships between people's councils and their executive organs, making people's councils true organs of state authority in localities and developing the people's right to collective ownership of localities.

Actually, many people's councils have failed to truly fulfill their missions and to carry out activities vigorously and steadily. As for the relationships between people's councils and people's committees in many localities, these people's committees have failed to pay due respect to people's councils, to convene conferences on schedule and to make adequate preparations for such conferences; there have been cases where conferences were held in a slipshod and perfunctory manner. Consequently, many people's council members have been unable to follow and grasp the overall state of local affairs and when attending conferences, their ability to express views on all local tasks has been very much limited because they had not been prepared as to the substance of the conferences before they were convened. Apart from attending regular meetings, the council members have scarcely carried out other activities to contribute to the execution of all local tasks.

These are precisely the weaknesses and shortcomings that hamper the development of the people's right to collective ownership. It is certain that, during the current debate on the draft constitution, our people will grasp the contents of the constitution, take the basic law of our country into account in reviewing the overall activities of local people's councils and committees and contribute realistic views to overcome the abovementioned weaknesses and shortcomings in order to turn people's councils into real organs of state authority in localities. Also, there must be close and appropriate relationships between people's councils and people's committees in localities as prescribed in the new draft constitution.

SRV DRAFT CONSTITUTION TERMINOLOGY EXPLAINED

Hanoi DOC LAP in Vietnamese 22 Aug 79 p 16

[Article by Vu Trinh: "On a Number of Terms Used in the Constitution"]

[Text] Basic Law [luaatj] of the State:

The constitution is the basic law of the state. It prescribes the political, economic, cultural and social system of our country; defines and systematizes the laboring people's right to collective ownership; determines the rights and basic duties of citizens; and specifies the organizational structure of the state, the functions and principal tasks of state organs, the relationships among these organs and those between the state and the people.

The constitution only sets forth the major principles. After the enactment of the constitution, the National Assembly will pass the necessary laws to substantiate these principles.

Law [luaatj]:

A law is a document of a universally compulsory character (that is, respect for and execution of it are compulsory on all persons, organs and mass and social organizations) which has been passed by the National Assembly. For example, there are a law on trade unions, a labor law, a law on marriage and family, a law on National Assembly elections, and a law guaranteeing the personal freedom and the inviolability of the homes, belongings and correspondence of the people.

(Law: Legal document passed by the National Assembly. After the constitution, a law is a state document having the highest legal effect. For example, there are a law on marriage and family, a law on the organization of the National Assembly, a law on the personal freedom and the inviolability of the homes, belongings and correspondence of the people ...)

[Text] [Hanoi HANOI MOI in Vietnamese 11 Sep 79 p 2]

Regulation [phaps leenhj]:

A regulation is a document of a universally compulsory character passed by the National Assembly Standing Committee or the State Council. For example, there are a regulation punishing violations of socialist property and a regulation punishing violations of the private property of citizens.

(Regulation: Legal document passed by the State Council. Regulations concretize laws or define matters entrusted by the constitution to the State Council. For example, the State Council issues a regulation prescribing various types of state orders and titles of honor.) [Text]
[Hanoi HANOI MOI in Vietnamese 11 Sep 79 p 2]

Resolution [NGHIJ QUYETS] of the National Assembly and the National Assembly Standing Committee (State Council):

There are two types of resolution:

1. One which includes resolutions of a legal character. For example, the National Assembly issues resolutions to pass yearly plans and state budgets and the National Assembly Standing Committee issues resolutions to ratify agreements signed by the Government Council [Hooij Doongf Chinhs Phur] with foreign countries.
2. Another which includes resolutions of a political character. For example, there are a resolution passing the Government Council's report on its work, a resolution on the internal organization of the National Assembly, a resolution on the setting up of various standing committees of the National Assembly and resolutions on personnel such as those concerning the appointment of ministers.

Laws [phaps luaatj]:

Laws [or "The Law"--generic term] are all the general regulations of a universally compulsory character which are promulgated by competent state organs and which include the constitution, laws, regulations, resolutions and decrees of the Cabinet Council, circulars and directives issued by ministries, resolutions of people's councils and decisions of people's committees at all levels. For example, Article 12 says: "The state manages the society according to laws."

Especially in the 1959 Constitution, the word "laws" [phaps luaatj] means also "law" [luaatj]. (For example, Article 50, item 2 stipulates: The National Assembly issues "laws" [phaps luaatj].)

(Laws: State regulations of a nature to compel respect and implementation by all state organs, people's organizations, social organizations, cadres, personnel of the state [nhaan vteen nhaf nwowcs] and citizens. They are, for example, the constitution, the laws issued by the National Assembly,

the regulations issued by the Council of State, the decrees and resolutions of the Council of Ministers, the resolutions of people's councils and the decisions of people's committees.

The draft constitution uses the word "laws" in the abovementioned sense in Article 12, 74 ...) [Text] [Hanoi HANOI MOI in Vietnamese 11 Sep 79 p 2]

Constitutional [laap hieens]:

The constitutional power is the power to make, amend and supplement the constitution.

Legislative [laapj phaps]:

The legislative power is the power to make, amend and supplement laws.

"Legislate" must not be interpreted [merely] as "make laws" [lamf phaps luaaatj]. It is a composite term with a special meaning and not one composed of two words: make + laws [laapj + phaps luaatj].

Promulgate Laws and Regulations [luaatj, phaps leenhj]:

Means officially issue them for execution by the entire people after they have been passed by the National Assembly or the National Assembly Standing Committee (State Council).

Order [leenhj]:

According to the 1959 Constitution, an order is a document issued by the president of the nation to promulgate the laws and regulations passed by the National Assembly or National Assembly Standing Committee.

Legal System [phaps chees]:

Saying that a country has a legal system means that it has adequate laws and judicial organs ensuring effective implementation of laws.

Vote, Pass, Ratify:

--To vote [bieeur quyeets] is to express one's opinion by approving or disapproving a proposal or a project.

--To pass [thoong qua] a proposal or project is to approve it by a vote.

--To ratify [phee chuaanr] is to approve an action taken by a state organ. For example, the National Assembly Standing Committee (State Council) ratifies international agreements signed by the Government Council [hooij dgoongf chinhs phur] with foreign countries.

Hanoi DOC LAP in Vietnamese 12 Sep 79 p 2

[Article: "On a Number of Terms Used in the Constitution"]

[Excerpt] Right to Participate in State Management:

This right includes the right to vote, to stand for election, to dismiss representatives to people-elected organs, to participate in discussing and formulating the constitution; discussing, settling and supervising state affairs; and in [formulating] economic and cultural plans. (Articles 11 and 55)

It must not be understood that only the state organs and leading cadres manage the state. It is necessary to attract the people into state affairs, to rely on the people and to motivate them to join in handling these affairs.

Inviolability of the Person:

There can be no arrest and detention without the decision of a court of justice or the decision or sanction of a people's procuratorate.

After the constitution has been enacted, a law will stipulate the competent organs and the arrest and detention procedures. At present, our state already possesses numerous documents on this matter. These documents must be strictly implemented by courts of justice, procuratorates and public security organs. Anyone who intentionally misapplies these documents will be dealt with according to law. (Article 67)

State Organs [cow quan nhaf mwowcs]:

These organs are all organs of the state including popularly-elected organs, enterprises, work sites, state farms

State Administration Organs [cow quan]:

These are organs having the duty to regulate and direct all state and social management activities (such as the Council of Ministers and People's Committees). They must not be confused with organs which carry out the managerial and administrative tasks (Article 101)

Personnel of the State [nhaan vileen nhaf nwowcs]:

These include all the persons who are working in state organs regardless of their positions. (Articles 12, 70)

People's Mass Organizations, Social Organizations [doanf theer nhaan daan, toor chwcs xax hooij]

The term "people's mass organizations" is used to call organizations which represent various strata such as mass organizations for youth, women and trade unions; the Federation of Collective Peasants (Article 103)

The term "social organizations" has a broader meaning and includes also organizations which are set up to carry out production (cooperatives and cooperation teams) or to perform another specific task (boards of students' parents, elders' cells, city people's cells [toor daan phoos] (Article 12)

Hanoi HANOI MOI in Vietnamese 11 Sep 79 p 2

[Article: "Rough Explanations of Some Legal Terms"]

[Excerpts] Constitution:

It is a basic law of the state. All other laws must be based on the constitution and must not contradict it.

Decrees and Resolutions of the Council of Ministers [nghij dinhj, nghij quyetsj]:

Documents enacted by the Council of Ministers to define major policies, lines and measures of the government on the basis of the constitution, laws and regulations.

Economic Law [phaps luaatj kinh tees]:

Includes legal documents defining economic problems.

Socialist Legal System [phaps chees xax hooij chur nghiax]:

Means thorough respect of law by state organs, people's mass organizations, social organizations, cadres, civil servants and citizens. To have a legal system, there must be the following factors:

--A relatively perfect system of law [heej thoongs phaps luaatj].

--State law [PHAPS LUAATJ CUAR NHAF NWOWCS] must be respected and strictly implemented by all state organs, people's mass organizations, social organizations, cadres and civil servants.

--All violations of law must be severely dealt with.

Hanoi HANOI MOI in Vietnamese 12 Sep 79 p 2

[Article: "Rough Explanation of Some Legal Terms"]

[Text] Vote, Pass Laws, Regulations

Vote [bieeur quyeets]:

Means express one's opinion by casting a secret vote or showing one's hand.

To approve a project by a vote is to pass it into a law, regulation or resolution.

Ratify [phee chuaanr]:

Is approve an action taken by a competent organ. For instance, the State Council ratifies an agreement signed by the government. (Article 97)

To ratify is also to allow to do something. For example, the People's Procuratorate ratifies the arrest and detention carried out by a public security organ. (Article 67)

Promulgate [coong boos]:

Is to officially issue for the people's information and execution (Article 97, item 3). A law becomes valid immediately after being passed by the National Assembly; promulgation is a measure taken merely to enable the people to grasp the law and strictly implement it.

Interpret the Law [phaps luaatj]:

In common language, to interpret the law is to clarify its meaning. The press, [radio] stations, college lectures and scientific organizations interpret the law according to their own knowledge. Such interpretations do not have a compulsory effect vis-a-vis state organs, citizens

In Item 5, Article 97, the interpretation of law by the State Council has a completely different significance since it is an official interpretation by the state, has the effect of enforcing compliance by state organs, citizens ... and is linked with the explained law or regulation.

The State Council will interpret a law when the Council of Ministers, the People's Supreme Court and the People's Supreme Procuratorate do not uniformly understand and implement one or several provisions of such law or regulation.

Violate the Law [phaps luaatj]:

Means to act contrary to law. For example, violate traffic law.

Means also to fail to do what is prescribed by law. For example, fail to carry out the law and regulations on grain purchase.

Criminal [tooij phamj]

The term "violation of law" has a very broad meaning and includes all cases of contravention of law.

The word "criminal" refers to serious violations of law which may be punished by courts of justice according to the criminal law.

Punish, Deal With [trwngf trij, xwr lys]:

The term "deal with" has a broader meaning than the word "punish." According to the degree of gravity or triviality of each case of violation of law, the offender may be criticized, warned, suspended from carrying out his task, forced to resign and indemnify or be brought to the court for punishment. (Article 70)

Hanoi HANOI MOI in Vietnamese 13 Sep 79 p 2

[Article: "Rough Explanation of Some Legal Terms"]

[Text] Ownership [quyeenf sowr hwux]:

This right is threefold:

1. The right to possess property--that is, to hold and keep it; and that no one is allowed to encroach on it and take it.
2. The right to use property--that is to utilize and exploit it and enjoy the income from it.
3. The right to decide on property--that is, to sell it, buy it back, trade it, pawn it, give it away

The essence of all-people ownership, collective ownership and private ownership is specified by law with a view to ensuring national economic development and satisfying individual needs. (Articles 20, 21, 29)

Land Reserved For Special Purposes [daats chuyeen dungf]

Land used in setting up warehouses or used as open depots, to build communication lines, houses (Article 22)

Confiscatory Purchase [trwng mua]:

The state compels citizens or collectives to sell their property to the state. (Article 24)

Requisition [trwng thu]:

The state requisitions the property of citizens or collectives with proper compensation. (Article 24)

Expropriation [trwng dungj]:

The state compels citizens or collectives to lend some property (houses, vehicles ...) to state organs for use during a fixed period of time. If the property is found to have suffered damage or loss when it is returned to the owner, the borrowing state organ shall indemnify the owner. (Article 24)

The law shall stipulate what levels and organs have the right to confiscatory purchase, requisition and expropriation.

Services [dichj wuj]:

Means activities aimed at satisfying the people's needs in daily life such as sewing and mending, hair dressing, sale of boiled water, laundry, bicycle repairs (Article 26)

Citizen [coong daan]:

Means persons holding Vietnamese nationality [quoocs tichj] as prescribed by law. (Article 52)

Children are Vietnamese citizens by birth, without having to wait until the age of 18 to acquire this status.

Deprive of Civic Rights [twoocs quyeenf coong daan]:

These terms have been used inaccurately. One must only say that certain rights are taken away. Only persons who are deprived of Vietnamese nationality and are no longer Vietnamese citizens lose all their civic rights.

The 30 October 1967 regulation on punishment of counterrevolutionary crimes stipulates that persons guilty of these crimes are deprived of the following civic rights for at least 2 years:

--The right to vote.

—The right to work in the state organization and organizations of the people's armed forces.

--The right to assume responsible positions in political, economic, cultural and social organizations.

Illegitimate Children [con ngoaif gias thus]:

Are children whose fathers and mothers do not register their marriage. (Article 63)

Hanoi HANOI MOI in Vietnamese 14 Sep 79 p 2

[Article: "Rough Explanation of Some Legal Terms"]

[Text] Supervision [giams sats]:

Is examination by the National Assembly and the State Council to see how the Council of Ministers and its subordinate organs, the People's Supreme Court and the Chief Procurator of the People's Supreme Procuratorate have executed the constitution, law [luaatj], regulations, policies and other [state] laws [phaps luaatj]. (Article 78)

Direction of Trials [giams doocs xets xwr]:

This is a twofold right of the People's Supreme Court over people's courts at all levels:

--Supervise courts of justice and correct their errors in order to insure that they conduct trials according to state policy and law.

--On discovery of an erroneous trial, conduct a retrial itself or entrust it to a lower-level court. (Article 131)

General Amnesty, Special Amnesty [daij xas, dacj xas]:

Both general amnesty and special amnesty mean remission of guilt, absolution, mitigation of punishment ... for a culprit.

A general amnesty decided by the National Assembly covers one or many crimes, with a scope of clemency broader than that of a special amnesty granted by the State Council.

The State Council exercises the right to grant special amnesty on receipt of a petition for clemency from the culprit[s] or on the occasion of a major holiday of the state. (Articles 79, 97)

Question [chaats vaans]:

Is a way for the National Assembly and the Council of State to exercise control over other high-level organs of our state (Government, People's Supreme Court and People's Supreme Procuratorate). The questioner has

the right to request the questioned organ to clearly present a specific matter; if the National Assembly finds a serious shortcoming, it may remove the head of the questioned organ. (Article 92)

Questioning differs from the asking of normal questions by a deputy who wants to query to obtain clear answers on a matter which he does not yet grasp.

Referendum [trwung caauf ys kieens cuar nhaan daan]:

Means that the State Council submits a major affair of the nation for the entire people's decision by a secret vote. (Article 97) For example, in Cuba, Hungary ... the draft constitution is submitted to the people's vote. After the people have expressed approval by a vote, the constitution will immediately come into effect. (Article 97, Item 6)

Organizing a referendum differs from presenting the draft constitution to the people for discussion as we are now doing.

State Economic Arbitration [trongj tais nhaf nwowcs veef kinh tees]:

Means settlement of disputes arising among enterprises and economic organizations of the state during the implementation of economic contracts. (Article 104, Item 10)

Legal Effect of Verdicts and Decisions of Courts of Justice [banr ans, quyeets dinhj]:

Means that the verdict or decision of a court of justice has become official, that appeal is no longer possible and that the persons and units concerned must strictly implement such verdict or decision. (Article 133)

Control [kieemr sats]:

The word "control" is used specially for the people's control sector to indicate the function of the organs of control to examine the observance of law by all ministries, organs of ministerial level, organs directly under the Council of Ministers, local organs of state, social organizations, cadres and personnel of the state, and all citizens with a view to ensuring strict and uniform compliance with the law. (Article 143)

Right of State Prosecution [quyeenf coong toos nhaf nwowcs]:

Right of the control sector to insure that investigations, detention, prosecution and trials [xets xwr] are in accordance with the law. If there is any deviation, corrective measures shall be quickly taken. (Article 134)

(The right of state prosecution is the right of people's procuratorates to prosecute--that is, to bring the offender to the people's court and ask it to try him in order to punish the criminal and simultaneously to protect the legitimate rights and democratic freedoms of the people. In carrying out prosecution, the people's procuratorates also inspect the observance of law in the investigation of criminal-case offenders by public security organs or other investigation organs, in the trial of criminal and civil cases by people's courts, in the execution of sentences [chaaps hanhf ans] and in the confinement of culprits in detention camps.) [Text] [Hanoi TIEN PHONG in Vietnamese 28 Aug-3 Sep 79 p 7]

Judge, People's Counselor:

Judges [thaamr phans] are employees of the state specialized in carrying out trials by courts of justice.

People's counselors [jooij thaamr nhaan daan] are representatives of people's mass organizations and social organizations who participate in trying each case to ensure that the trial is carried out according to actual facts.

(People's counselors are persons elected by popularly-elected organs to join court judges in trials. People's counselors have the right to examine the suit files and also the same voting right as the judges when the latter consult together to find a verdict.) [Text] [Hanoi TIEN PHONG in Vietnamese 28 Aug-3 Sep 79 p 7]

Judges and people's counselors have equal powers in conducting trials. (Article 126)

Hanoi TIEN PHONG in Vietnamese 21-27 Aug 79 p 7

[Article: "Seek to Understand the Constitution Terms"]

[Text] Political System:

When speaking of a political system, one must first deal with the class substance of the state and with the question of who the state belongs to and whose interests it serves.

The socialist constitution affirms the class nature of the state, the right to collective ownership of the laboring people with the worker-peasant alliance as the backbone, and the leadership exercised by the working class through its vanguard party.

Simultaneously with asserting the class essence of the state, the constitution also settles the problem of relationships among various nationalities and affirms their equality and solidarity.

Socio-economic System:

The economic system is also a basic problem of the constitution since each and every state rests on a definite economic foundation and since the class character of the state is determined by the economic foundation and production formula. The question is in whose possession the principal production means are and whose interests these means promote.

The system of private ownership of production means necessarily leads to the exploitation of man by man and gives rise to a state with an oppressive and exploitative apparatus held by the exploiting class.

The socialist constitution establishes a system of public ownership of production relations under two forms: all-people ownership and collective ownership. This is the only way to eliminate the system of exploitation of man by man.

The system of ownership of production means is a basis for the right to ownership; if there is a private ownership of production means, mastery will lie with the exploiting class. Only through a system of public ownership of production means can the laboring people become true masters.

Right to Complain:

Means the citizens' right to request the competent state organ to look into the transgression of law and the damage to the citizens' interests by the personnel of state organs.

Right to Denounce:

Means the right of citizens--on hearing about an illegal act by the personnel of a state organ or by anyone--to notify the responsible state organ to enable it to promptly take measures to stop and deal with such act so as to protect the interests of the state, society or citizens.

Flagrante Delicto Violation of Law:

According to current law, following are four cases of flagrante delicto breach of law:

1. Being in the process of violating the law or being disclosed immediately after breaching the law.
2. Being pursued for arrest after breaching the law.
3. Escape from detention.
4. Being subject to a warrant for trackdown.

Emergency Cases:

According to current law, following are six cases of emergency:

1. There are acts in preparation for a violation of law.
2. The victim or the person present at the place where the breach of law is committed personally sees the offender and confirms that he is truly the offender.
3. Evidence of violation of law is found on the person or at the house of the one suspected of breaching the law.
4. Preparations are being made for escape, or a person is in the process of fleeing.
5. Preparations are being made to destroy evidence, or a person is in the process of destroying or faking evidence. There is collusion among criminals to evade the law.
6. Identity or origin is unclear.

Hanoi TIEN PHONG in Vietnamese 28 Aug-3 Sep 79 p 7

[Article: "Seek to Understand Constitution Terms"]

[Excerpts] Right to Make Legislative Suggestions:

Is the right to propose and submit a draft law--that is, to take the initiative in formulating a draft law on a given matter and to present it to the National Assembly for consideration.

Promulgate the Law:

A law which has been passed by the National Assembly shall be promulgated for information to and execution by everyone. According to the new draft constitution, the State Council has the power and duty to promulgate laws.

Principle of Two-Level Trial:

This principle means that after being tried at a low-level people's court, a case may be brought to a people's court at a higher level for retrial. The right to appeal--that is, to request that a case be tried again--belongs to the party concerned, the defendant and the people's procuratorate disagree on the verdict or decision of the people's court.

This principle aims at ensuring carefulness in and correctness of the trial.

Hanoi TIEN PHONG in Vietnamese 11-17 Sep 79 p 6

[Article: "Seek to Understand Constitution Terms"]

[Excerpt] Rules on Social Life:

Are provisions by the state on habits to be practiced in a socialist civilized mode of living. (Article 74)

Socialist Property:

This term refers to the property of the state, cooperatives and other socialist collective organizations. (Article 75)

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